IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 532 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT
Versus
RAM CEREMIC THANGADH

Appearance:
MR BD DESAI APP for Petitioner
MS. YAMINI J. DESAI for MR YOGESH S LAKHANI
for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 25/08/2000

ORAL JUDGEMENT

1. One Mr. H.R. Rao, Joint State Apprenticeship Adviser filed complaint being Criminal Case No.549 of

1989 against the respondents, (hereinafter shall be referred to as "the accused" for short), for the offences punishable under Sec.8(3), 30(1)(c) read with Sec. 19(1) and 30(2) (a) (1) and 32 of the Apprenticeship Act, 1961 (hereinafter shall be referred to as "the Act" for short), in the Court of the learned Judicial Magistrate (First Class), Chotila. The complainant referred to violation of the provisions of Sec.8(3) and Sec. 19(2) of the Act, coupled with the Rules framed thereunder. Factually, the allegations were to the effect that the accused did not recruit 5 apprentices as required and did not submit half yearly report for the period ending March, 1989 and APP-4-Form. By the impugned judgement and order dtd. 26th April, 1991, the learned Magistrate acquitted the accused persons from the charges levelled against them on the ground that the complainant did not prove that he was authorised to file the complaint by virtue of Sec. 33 of the Act. The learned Magistrate has considered the provisions of Sections 27(2), 33 and 34 of the Act and has observed that belated production of the copy of the Office Order authorising the complainant to file the complaint, would not solve the question raised by the accused persons. The learned Magistrate has observed that the necessary notifications under the Act were also not placed on record. Thus, the complainant failed to establish his case beyond reasonable doubt that he had authority to file the complaint against the accused persons; that is why, the the learned Magistrate acquitted the accused persons from the charges levelled against them.

2. When this appeal came up for hearing and disposal, the learned A.P.P. was not able to point out even from the memo of the appeal, reference to required notifications under Sec. 27 and 34 of the Act and hence factually, the authority of the complainant to file the complaint could not be established even at this stage. The sub-delegation of the function under Sec.33 as sought to be shown by the belated production of the Office Order - Ex. 24/1 will take the matter neither here nor there. Ex.24/1 is not the answer of the question which is sought to be raised even in this appeal. Hence in view of the facts and circumstances of the case and bearing in mind the fact that as many as 9 years have been passed since the filing of the appeal, it is no use entertaining the appeal against the acquittal. The appeal has, therefore, to be dismissed.

3. In view of what is stated above, this appeal is hereby dismissed.

(M.S. PARIKH, J.)

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